

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

MARVEL CHARACTERS, INC.,

Plaintiff,

v.

LAWRENCE D. LIEBER,

Defendant.

LAWRENCE D. LIEBER,

Counterclaimant,

v.

MARVEL CHARACTERS, INC., and DOES
1-10, inclusive,

Counterclaim-Defendants.

MARVEL CHARACTERS, INC.,

Plaintiff,

v.

PATRICK S. DITKO, in his capacity as
Administrator of the Estate of Stephen J.
Ditko,

Defendant.

PATRICK S. DITKO, in his capacity as
Administrator of the Estate of Stephen J.
Ditko,

Counterclaimant,

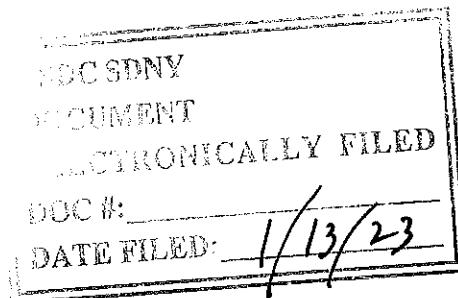
v.

MARVEL CHARACTERS, INC. and DOES
1-10, inclusive,

Counterclaim-Defendants.

Case No.: 1:21-cv-7955-LAK
and consolidated cases
21-cv-7957-LAK and 21-cv-7959-
LAK

**JOINT STIPULATION AND
[PROPOSED] ORDER REGARDING
MODIFICATION OF THE PRETRIAL
SCHEDULE**



MARVEL CHARACTERS, INC.,

Plaintiff,

v.

KEITH A. DETTWILER, in his capacity as
Executor of the Estate of Donald L. Heck,

Defendant.

KEITH A. DETTWILER, in his capacity as
Executor of the Estate of Donald L. Heck

Counterclaimant,

v.

MARVEL CHARACTERS, INC. and DOES
1-10, inclusive,

Counterclaim-Defendants.

STIPULATION

Plaintiff and Counterclaim-Defendant Marvel Characters, Inc. and Defendants and Counterclaimants Lawrence D. Lieber, Patrick S. Ditko, and Keith A. Dettwiler (collectively, the “Parties”) stipulate as follows:

WHEREAS, two other actions are currently pending in the United States District Courts for the Eastern District of New York and the Central District of California: *Marvel Characters, Inc. v. Solo*, No. 1:21-cv-5316-NRM-TAM (E.D.N.Y.); and *Marvel Characters, Inc. v. Hart-Rico*, No. 2:21-cv-07624-DMG-KES (C.D. Cal.) (together with the above-captioned action, the “Pending Actions”).

WHEREAS, the Parties previously requested that parallel schedules be issued across the Pending Actions to facilitate, *inter alia*, discovery and other pre-trial matters to proceed efficiently.

WHEREAS, with certain limited exceptions, the Courts issued largely parallel schedules as jointly requested by the Parties.

WHEREAS, the Parties have a third-party deposition scheduled in North Carolina on January 20, 2023, the present deadline for 26(a)(2) initial disclosures with respect to expert witnesses.

WHEREAS, the parties have met and conferred and, in light of the conflict on January 20 (and attendant travel for such out-of-town deposition), the parties respectfully request a one-week extension of the expert-related deadlines, which will not impact the larger schedule ordered by the Court.

WHEREAS, recognizing that the Third Scheduling Order¹ states that no further extensions will be permitted, this modification will not delay the overall progress of the case.

Based on the foregoing, **IT IS HEREBY STIPULATED** by and between the Parties, through their respective counsel of record, subject to the Court's approval, that the following modifications be made to the pretrial schedule:²

1. The deadlines for 26(a)(2) disclosures with respect to expert witnesses and rebuttal expert witnesses are continued from January 20 to January 27, 2023 and from February 8 to February 15, 2023, respectively.
2. The cut-off for expert depositions is continued from March 1 to March 8, 2023.
3. The other deadlines in the case, including the March 1, 2023 deadline for the close of fact discovery, remain unchanged.

¹ See Order (ECF No. 51), *Marvel Characters, Inc. v. Lieber*, No. 1:21-cv-07955-LAK (S.D.N.Y.); Order (ECF No. 46), *Marvel Characters, Inc. v. Ditko*, No. 1:21-cv-07957-LAK (S.D.N.Y.); Order (ECF No. 49), *Marvel Characters, Inc. v. Dettwiler*, No. 1:21-cv-07959-LAK (S.D.N.Y.).

² Concurrently with the submission of this Stipulation, the same modifications are being proposed in the other Pending Cases.

Dated: January 16, 2023

TOBEROFF & ASSOCIATES, P.C.

By: /s/ Marc Toberoff
Marc Toberoff

Marc Toberoff
mtoberoff@toberoffandassociates.com
23823 Malibu Road, Suite 50-363
Malibu, CA 90265
Telephone: (310) 246-3333
Facsimile: (310) 246-3101

Attorneys for Lawrence D. Lieber, Patrick S. Ditko, and Keith A. Dettwiler

Dated: January 16, 2023

O'MELVENY & MYERS LLP

By: /s/ Daniel M. Petrocelli
Daniel M. Petrocelli

Daniel M. Petrocelli*
dpetrocelli@omm.com
Molly M. Lens
mlens@omm.com
Matthew Kaiser*
mkaiser@omm.com
1999 Avenue of the Stars, 8th Floor
Los Angeles, California 90067
Telephone: (310) 553-6700
Facsimile: (310) 246-6779

* Admitted pro hac vice

Attorneys for Marvel Characters, Inc.

SO ORDERED


LEWIS A. KAPLAN, USDJ

1/17/23